

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

**SUMMARY ORDER**

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO SUMMARY ORDERS FILED AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY THIS COURT'S LOCAL RULE 32.1 AND FEDERAL RULE OF APPELLATE PROCEDURE 32.1. IN A BRIEF OR OTHER PAPER IN WHICH A LITIGANT CITES A SUMMARY ORDER, IN EACH PARAGRAPH IN WHICH A CITATION APPEARS, AT LEAST ONE CITATION MUST EITHER BE TO THE FEDERAL APPENDIX OR BE ACCOMPANIED BY THE NOTATION: "(SUMMARY ORDER)." A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF THAT SUMMARY ORDER TOGETHER WITH THE PAPER IN WHICH THE SUMMARY ORDER IS CITED ON ANY PARTY NOT REPRESENTED BY COUNSEL UNLESS THE SUMMARY ORDER IS AVAILABLE IN AN ELECTRONIC DATABASE WHICH IS PUBLICLY ACCESSIBLE WITHOUT PAYMENT OF FEE (SUCH AS THE DATABASE AVAILABLE AT [HTTP://WWW.CA2.USCOURTS.GOV/](http://www.ca2.uscourts.gov/)). IF NO COPY IS SERVED BY REASON OF THE AVAILABILITY OF THE ORDER ON SUCH A DATABASE, THE CITATION MUST INCLUDE REFERENCE TO THAT DATABASE AND THE DOCKET NUMBER OF THE CASE IN WHICH THE ORDER WAS ENTERED.

At a stated term of the United States Court of Appeals  
for the Second Circuit, held at the Daniel Patrick Moynihan  
United States Courthouse, 500 Pearl Street, in the City of  
New York, on the 18<sup>th</sup> day of April, two thousand eight.

**PRESENT:**

HON. GUIDO CALABRESI,  
HON. PETER W. HALL,  
HON. DEBRA ANN LIVINGSTON,  
*Circuit Judges.*

JIANG WEN ZHENG,  
*Petitioner,*

v.

MICHAEL B. MUKASEY,<sup>1</sup>  
U.S. ATTORNEY GENERAL  
*Respondent.*

07-3643-ag  
NAC

<sup>1</sup> Pursuant to Federal Rule of Appellate Procedure 43(c)(2),  
Attorney General Michael B. Mukasey is automatically substituted for former  
Attorney General Alberto R. Gonzales as a respondent in this case.

1     **FOR PETITIONER:**             **Richard Tarzia, Belle Mead, New**  
2                                     **Jersey.**

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4     **FOR RESPONDENT:**           **Jeffrey S. Bucholtz, Acting**  
5                                     **Assistant Attorney General; Blair T.**  
6                                     **O'Connor, Senior Litigation Counsel;**  
7                                     **Kiley L. Kane, Trial Attorney,**  
8                                     **Office of Immigration Litigation,**  
9                                     **U.S. Department of Justice,**  
10                                    **Washington, D.C.**

11  
12           UPON DUE CONSIDERATION of this petition for review of a  
13     decision of the Board of Immigration Appeals ("BIA"), it is  
14     hereby ORDERED, ADJUDGED, and DECREED, that the petition for  
15     review is DENIED.

16           Jiang Wen Zheng, a native and citizen of the People's  
17     Republic of China, seeks review of an August 14, 2007 order  
18     of the BIA affirming the August 8, 2005 decision of  
19     Immigration Judge ("IJ") Robert D. Weisel denying his  
20     application for asylum, withholding of removal, and relief  
21     under the Convention Against Torture ("CAT"). *In re Jiang*  
22     *Wen Zheng*, No. A98 717 884 (B.I.A. Aug. 14, 2007), *aff'g* No.  
23     A98 717 884 (Immig. Ct. N.Y. City Aug. 8, 2005). We assume  
24     the parties' familiarity with the underlying facts and  
25     procedural history of the case.

26           Where the BIA adopts and supplements the IJ's decision,  
27     this Court reviews the decision of the IJ as supplemented by  
28     the BIA. *Yan Chen v. Gonzales*, 417 F.3d 268, 271 (2d Cir.

1 2005). We review the agency's factual findings under the  
2 substantial evidence standard, treating them as "conclusive  
3 unless any reasonable adjudicator would be compelled to  
4 conclude to the contrary." 8 U.S.C. § 1252(b)(4)(B); see,  
5 e.g., *Zhou Yun Zhang v. I.N.S.*, 386 F.3d 66, 73 (2d Cir.  
6 2004), overruled in part on other grounds by *Shi Liang Lin*  
7 *v. U.S. Dept. of Justice*, 494 F.3d 296, 305 (2d Cir. 2007)  
8 (en banc). We will vacate and remand for new findings,  
9 however, if the agency's reasoning or its fact-finding  
10 process was sufficiently flawed. See *Cao He Lin v. U.S.*  
11 *Dep't. of Justice*, 428 F.3d 391, 406 (2d Cir. 2005). We  
12 review *de novo* questions of law, including what quantum of  
13 evidence will suffice to discharge an applicant's burden of  
14 proof. See, e.g., *Secaida-Rosales v. INS*, 331 F.3d 297, 307  
15 (2d Cir. 2003).

16 The agency found that Zheng did not have a well-founded  
17 fear of persecution in China for two reasons: first, Zheng's  
18 asylum application indicated that he might qualify for an  
19 exception to the one-child policy because his first child,  
20 who remains in China, was disabled; second, Zheng and his  
21 wife testified that she and their second child would stay in  
22 the United States if Zheng were to be removed to China.

1 Zheng did not challenge either of these findings before  
2 this Court. Furthermore, Zheng did not challenge the  
3 agency's denial of CAT relief in his opening brief. Issues  
4 not sufficiently argued in the briefs are considered waived  
5 and normally will not be addressed on appeal in the absence  
6 of manifest injustice. *Yueqing Zhang v. Gonzales*, 426 F.3d  
7 540, 541 n.1, 545 n.7 (2d Cir. 2005). Because Zheng failed  
8 to sufficiently argue that the agency erred in denying  
9 asylum and withholding of removal for the reasons above or  
10 to challenge the denial of CAT relief before this Court, and  
11 because addressing these arguments does not appear to be  
12 necessary to avoid manifest injustice, we deem any such  
13 arguments waived.<sup>2</sup> Zheng's failure to challenge the  
14 agency's finding that he did not establish a well-founded  
15 fear of persecution is fatal to his petition for review.

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<sup>2</sup> Zheng argues that the BIA violated his due process rights by relying on the 2007 Asylum Profile for China without giving him a chance to rebut this evidence. We find no violation here because the BIA only cited to the profile in an alternative finding that had no impact on the dispositive findings discussed above. See *Burger v. Gonzales*, 498 F.3d 131, 134-135 (2d Cir. 2007) ("[A]n asylum applicant must be given notice of, and an effective chance to respond to, potentially *dispositive*, administratively noticed facts.") (emphasis added).

1           For the foregoing reasons, the petition for review is  
2 DENIED. As we have completed our review, any stay of  
3 removal that the Court previously granted in this petition  
4 is VACATED, and any pending motion for a stay of removal in  
5 this petition is DISMISSED as moot. Any pending request for  
6 oral argument in this petition is DENIED in accordance with  
7 Federal Rule of Appellate Procedure 34(a)(2), and Second  
8 Circuit Local Rule 34(d)(1).

9                                   FOR THE COURT:

10                                  Catherine O'Hagan Wolfe, Clerk  
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12                                  By: \_\_\_\_\_